

***Remarks***

Upon entry of the foregoing amendment, claims 1-18 are pending in the application, with claims 1 and 10 being the independent claims. New claims 11-18 are sought to be added. Support for new claims 11-18 can be found at least at p. 2, ll. 4-14, p. 7, l. 30 - p. 8, l. 17, p. 9, l. 25 - p. 10, l. 6, and Figures 1-4 of the specification as filed. These changes introduce no new matter, and their entry is respectfully requested.

Based on the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

***Rejections under 35 U.S.C. § 112***

The Office Action rejected claim 1 under 35 U.S.C. § 112, second paragraph. Specifically, the Office Action stated that the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. Claim 1 is amended herein to delete the phrase "such as." Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of claim 1 under 35 U.S.C. § 112.

***Rejections under 35 U.S.C. § 102 and 35 U.S.C. § 103***

**Claims 1-5 and 7-9 and new claims 16-18**

Claims 1-5 and 7-9 were rejected under 35 U.S.C. § 102(b) as being anticipated by Belgium Patent No. 337440 ("the '440 patent"). Applicants respectfully traverse these rejections.

Independent Claim 1

Present claim 1 recites a device for cleaning a fabric including a reservoir containing a cleaning fluid and a scrubbing member for scrubbing a fabric, the scrubbing member having a plurality of dispensing orifices, wherein the scrubbing member comprises a coarse mesh structure having apertures therein that constitute the plurality of dispensing orifices. For example, as seen in the non-limiting exemplary embodiments of Figs. 2 and 3 of the present application, fluid from the reservoir first enters an enclosure (the space under end cap 15) which allows the cleaning fluid to exit through the plurality of dispensing orifices in the mesh structure.

The '440 patent does not anticipate the device of claim 1. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The '440 patent does not disclose a scrubbing member comprising a coarse mesh structure having apertures therein that constitute a plurality of dispensing orifices, as presently recited in claim 1.

The Office Action states that the '440 patent discloses a scrubbing member having one or more dispensing orifices. Office Action, p. 2. However, as shown in Figures 1-8 of the '440 patent, wax is dispensed through a **single orifice** 4 to a brush which is used to apply wax. Thus, the '440 patent does not disclose a scrubbing member having a **plurality of** dispensing orifices, as claimed. The Office Action also states that the bristles 1 of the brush disclosed by the '440 patent form a coarse mesh structure.

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Office Action, p. 2. Applicants respectfully disagree. As one of ordinary skill would readily understand, a brush is not a mesh structure having apertures, as recited in the present claims. Moreover, the '440 patent provides no disclosure that the bristles of the brush disclosed therein are interwoven, intertwined, interlocked or otherwise configured in a manner so as to provide a **mesh** structure having **apertures**, as currently recited in claim 1. The '440 patent merely discloses mounting a plurality of bristles 1 on a support 2. '440 patent machine translation, p. 1. This is clearly not a mesh structure as recited in present claim 1. Furthermore, the Office Action provides no support for the assertion that the bristles 1 of the brush disclosed by the '440 patent are coarse, and, in fact, the '440 patent does not disclose coarse bristles. *See* Office Action, p. 2. The brush disclosed by the '440 patent is designed for applying wax to shoes or furniture ('440 patent machine translation, p. 1). This utility suggests that the brush in the '440 patent must have smooth bristles in order to apply an even coat of wax without harming the surface being waxed.

The '440 patent therefore fails to disclose a scrubbing member comprising "a **coarse mesh** structure having **apertures** therein that constitute the **plurality of dispensing orifices**," as recited in present claim 1. Accordingly, present claim 1 is not anticipated by the '440 patent.

For at least the foregoing reasons, claim 1, and claims 2-5, 7-9 and 16-18 which depend from claim 1, are patentable over the '440 patent. Applicants therefore respectfully request that the rejections of claims 1, 2-5 and 7-9 be reconsidered and withdrawn, and that claims 1, 2-5, 7-9 and 16-18 be allowed.

**Dependent Claim 6**

Claim 6 was rejected under 35 U.S.C. § 103(a) as obvious over the '440 patent. Present claim 6 recites, "[a] device according to claim 1 in which the coarse mesh structure is a coarse mesh fabric." The Office Action states that the '440 patent does not teach that the dispensing orifices are provided by a mesh fabric, but that "[i]t would have been obvious to one of ordinary skill in the art at the time of the invention to modify [the '440 patent] to utilize a mesh fabric filter to filter out soap particulates and/or permit application of viscous liquids to clean fabric to achieve the expected result." Office Action, p. 4. Applicants respectfully traverse this rejection.

Obviousness can be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so. *In re Kahn*, 441 F.3d 977, 986 (Fed. Cir. 2006); *see also* MPEP 2143.01. However, to reject a claim based on this rationale, the Examiner must articulate a finding that there was some teaching, suggestion, or motivation to combine or modify the teachings of the prior art, and a finding that there was a reasonable expectation of success. If any of these findings cannot be made, then this rationale cannot be used to support a conclusion that the claim would have been obvious to one of ordinary skill in the art. *See* "Examination Guidelines for Determining Obviousness under 35 U.S.C. § 103 in view of the Supreme Court decision in *KSR International v. Teleflex Inc.*", *Fed. Reg.* 72:57526-57535, 57534 (October 10, 2007), hereinafter "Examination Guidelines." While no explicit suggestion in the prior art is necessary to establish *prima facie* obviousness, the Examiner still has a burden of explaining why a person of ordinary skill in the art would have been prompted to modify the prior art to

make the claimed invention. *See KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727, 1741 (2007).

In the present case, the Examiner has failed to meet this burden. Specifically, the Examiner has not shown that it was known at the time of the presently claimed invention to utilize a mesh fabric filter to filter out soap particulates and/or permit application of viscous liquids to clean fabric. The Examiner has therefore not provided support for the assertion that it would have been obvious to modify the '440 patent to utilize a mesh fabric filter to filter out soap particulates and/or permit application of viscous liquids to clean fabric to achieve the expected result.

Moreover, as detailed below, modifying the '440 patent to include a coarse mesh fabric, as alleged by the Examiner, would render the brush disclosed by the '440 patent unsatisfactory for its intended purpose. *See In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984). *See also* MPEP 2143.01(V and VI)("If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious."). The '440 patent is directed to a brush for waxing shoes and furniture. '440 patent machine translation, p. 1. As one of ordinary skill in the art would readily understand, using a coarse mesh structure in place of the brush to apply wax in the '440 patent would render the brush unsatisfactory for its intended purpose, as the use of such a coarse mesh structure would likely cause damage to shoes or furniture. As recited in present claim 1, the scrubbing member is for scrubbing fabric. As disclosed in the present application, the coarse mesh structure of the scrubbing member is abrasive so as to provide a **scrubbing surface suitable to cleaning fabric**. Specification as filed, p.

3, ll. 10-28. Moreover, the Examiner has not provided any finding that a coarse mesh fabric could reasonably be expected to properly spread a layer of wax on a surface in the same manner as the brush of the '440 patent. One skilled in the art therefore would not have modified the disclosure of the '440 patent to replace the brush with a coarse mesh fabric as claimed.

In addition, as seen in non-limiting exemplary Figs. 2 and 3 of the present application, fluid from the reservoir first enters an enclosure (the space under end cap 15) which allows the cleaning fluid to exit through the plurality of dispensing orifices in the mesh structure. Since the '440 patent dispenses wax directly from the small orifice 4, even assuming *arguendo* that a mesh structure could be substituted for the brush, the surface area of the mesh exposed to the wax would only be the small area covering orifice 4, and would not necessarily provide a plurality of dispensing orifices for the wax. Thus, even if the brush were replaced with a coarse mesh fabric, as alleged by the Examiner, the apparatus disclosed by the '440 patent still would not meet the elements of the present claims, as a brush modified in that way would not have a plurality of dispensing orifices as recited in the present claims.

For at least the foregoing reasons, claim 6 is patentable over the '440 patent. Applicants therefore respectfully request that the rejection of claim 6 be reconsidered and withdrawn.

**Independent Claim 10 and new claims 11-15**

Claim 10 was rejected under 35 U.S.C. § 102(b) as being anticipated by the '440 patent, or, in the alternative, under 35 U.S.C. § 103(a) as obvious over the '440 patent. Applicants respectfully traverse these rejections.

Present claim 10 recites a method of cleaning a fabric, comprising obtaining a device comprising a reservoir and a scrubbing member having a coarse mesh structure having a plurality of dispensing orifices, and securing a removable portion and the scrubbing member on the reservoir to close the reservoir. As detailed above, the '440 patent provides no disclosure that the bristles of the brush disclosed therein are configured so as to provide a **mesh** structure, as currently recited in claim 10. Moreover, as shown in Figures 1-8, the brush disclosed by the '440 patent dispenses wax through a **single orifice** 4. Thus, the '440 patent does not disclose a plurality of dispensing orifices, as recited in the present claims. Furthermore, the Office Action provides no support for the assertion that the bristles 1 of the brush disclosed by the '440 patent are coarse, and, in fact, the '440 patent does not disclose coarse bristles. In fact, one would expect that the brush disclosed by the '440 patent, which is designed for applying wax to shoes or furniture ('440 patent machine translation, p. 1), would be smooth in order to apply an even coat of wax without harming the surface being waxed. Because the '440 patent fails to disclose a method of cleaning a fabric comprising obtaining a device comprising a scrubbing member having a **coarse mesh structure having a plurality of dispensing orifices**, claim 10 is not anticipated by the '440 patent.

The '440 patent also fails to render claim 10 obvious. Establishment of a *prima facie* case of obviousness requires that the Examiner factually show that the references in combination disclose *all* of the elements of the claims in their proper function, as well as provide a reasoned articulation that the combination of elements would have been known to produce a predictable result. Because the '440 patent fails to disclose a method of cleaning a fabric comprising obtaining a device comprising a scrubbing member having **a coarse mesh structure having a plurality of dispensing orifices**, as recited in present claim 10, claim 10 is not rendered obvious by the '440 patent.

For at least the foregoing reasons, claim 10, and claims 11-15 which depend from claim 10, are patentable over the '440 patent. Applicants therefore respectfully request that the rejection of claim 10 be reconsidered and withdrawn, and claims 10-15 be allowed.



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Appl. No. 10/579,267

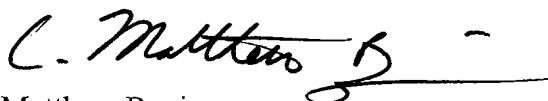
***Conclusion***

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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